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Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Torture an Institutionalized Practice in Indian Administered Kashmir

On 27th of Nov, 2017, Monday several disturbing pictures of the torture of prisoners in Tihar jail including that of Shahid Yusuf, the son of Muhammad Yousaf Shah resident of Budgam Indian Administered Kashmir hit the social media. There were visible bruises cuts on the bodies of prisoners highlighting the brutal physical assault they had suffered. These pictures generated serious concern in Indian Administered Kashmir but failed to make any news in Indian National media. It was because of the current political discourse in India which has created more hatred towards already people of Kashmir.

A committee constituted by Delhi High Court has confirmed torture of Kashmiri prisoners inside the high security Tihar jail in India's national capital. It established that Tamil Nadu state police force personnel have beaten as many as 18 Jail inmates of Tihar Jail. The High Court had termed as "very disturbing" the alleged attack on inmates lodged in a high-risk ward in jail number-1 of the jail on the night of November 21. "We need to take a call. It (the incident) is completely unjustifiable," a bench of acting-Chief Justice Gita Mittal and Justice C Hari Shankar had said.

In a similar incident September 2017, in which 47 inmates were beaten mercilessly by the Jail authorities inside prison, Delhi High court directed the Tihar Jail authorities to conduct a fair probe and get the victims medically examined. But no such probe is conducted. Family of senior separatist leader Abdul Samad Inqalabi also alleged that Inqalabi was beaten to pulp by police inside Kathua Jail in Jammu region.

Universal declaration of human rights article 5 and article 7 of the international covenant on civil and political rights provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

States are under obligation under charter and in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms.

The Convention against Torture defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession…" (Art. 1). It may be "inflicted by or at the instigation of or acquiescence of a public official or other person acting in an official capacity."

The prohibition against torture as well as cruel, inhuman or degrading treatment is not limited to acts causing physical pain or injury. It includes acts that cause mental suffering e.g. through threats against family or loved ones. As the U.S. Supreme Court has recognized, "coercion can be mental as well as physical… the blood of the accused is not the only hallmark of an unconstitutional inquisition."

In contravention to international law India has institutionalized torture in Indian Administered Kashmir. Way back in January 1996 former UN Special Rapporteur on torture Nigel Rodley in his report said his mandate has received information that torture is practiced routinely by the army, the Border Security Force BSF and Central Reserve Police Force against the vast majority of persons arrested for political reasons in Indian administered Jammu and Kashmir. He further added official investigations into allegations of torture, including those that resulted in custodial death, were rare and if any investigation had taken place, they were taken by armed forces themselves rather than by an Independent body.

The victims mostly political prisoners implicated on different false accusations in different interrogation centres and prisons describe these interrogation centres and Jails as torture chambers. From 1989 to 2017 there have been 10,000+ documented disappearances and 95,000+ deaths of Kashmiris resulting from the Indian occupation.

According to Khurram Parvaiz, leading human rights defender "The most underreported phenomenon in Jammu and Kashmir is torture. If you go to any village hundreds of people in every village have been tortured, not just men, but women, children and old people as well." Parvaiz was involved in documenting the torture of over 1,500 people who became impotent because their genitals were electrocuted. Parvaiz continued to describe another case of torture, "I have

documented very horrible cases, but this is the most horrible." The army kept a 60-year-old man in solitary confinement for one month. During that time, he wasn't given anything to eat, but his own flesh. They cut the flesh from his body and served it to him. This was all he was given to eat for a month. Recounting the torture Parvaiz said, "This was something that shook me.

In an explosive revelation by whistle-blower website WikiLeaks, cables sent by US diplomats in 2005 quote the Red Cross as saying the Indian government condones torture of detainees in Kashmir. The cables give a Red Cross assessment of how detainees are treated in Kashmir. The cables say, "The International Committee for Red Cross (ICRC) had become frustrated with Indian government which, they said, had not acted to halt the "continued ill-treatment of detainees." The ICRC concluded that India "condones torture" and that the torture victims were civilians as militants were routinely killed."

The reports documented and released by Coalition of Civil Society Srinagar, International Tribunal for Human Rights and justice, Association of parents of disappeared persons Jammu Kashmir which include, Buried Evidence, Facts under Ground, Structures of Violence and others have dispensed with the cases of torture in detail.

But unfortunately these facts did not get the international attention to the extent it deserved and every time India got away without receiving any condemnation by International community. Even office of the high commissioner and United Nations human rights mechanism failed to impress upon shun away.

There is no evidence that the government of India has taken serious steps to curb the practice of torture in Kashmir. Most detainees taken into custody by the security forces in Kashmir continue to be tortured. The methods that have long been practiced in the state are fairly crude, and the security forces have demonstrated little concern for disguising injuries caused by torture. These methods include prolonged beatings, electric shock, burning with heated objects and crushing the muscles with a wooden roller. Detainees are generally held in temporary detention centers, controlled by the various security forces, without access to the courts, relatives or medical care.

During 3rd cycle of Universal periodic review (UPR) at the United Nations Human Rights Council in May 2017, 35 countries raised the issue of torture in India. They called on India to ratify the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which India had signed in 1997 but never ratified.

Then Indian Attorney general, Mukul Rohatgi who was leading the delegation of government of India at the UPR, reiterated Indians commitment to ratify the treaty but at the same time mentioned that the concept of torture is completely alien to Indian culture and it has no place in the governance of the nation. Attorney generals these remarks came under heavy criticism from human rights watch dogs who had already submitted parallel reports on the Indian human rights situations. India never comes out of denial mode, this has permeated a cultural of impunity and not only government officials but now under the current government Hindu fundamentalist of RSS and BJP are time and again involved in attacks on Kashmiri Prisoners in Indian Jails.